

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHNNY EAGLE, #525192,

Case No. 08-11333

Plaintiff,

DISTRICT JUDGE
ARTHUR J. TARNOW

v.

SCOTT MARRIOTT, *et al.*,

MAGISTRATE JUDGE
DONALD A. SCHEER

Defendants.

ORDER

ADOPTING THE REPORT AND RECOMMENDATION [34],

GRANTING DEFENDANTS' SECOND MOTION FOR SUMMARY JUDGMENT [31],

DENYING PLAINTIFF'S MOTIONS FOR SUMMARY JUDGMENT [22] and[33],

DENYING AS MOOT PLAINTIFF'S MOTION TO VACATE [32],

**DENYING AS MOOT PLAINTIFF'S MOTION FOR LEAVE TO FILE A
SUPPLEMENTAL COMPLAINT [41],**

and

DISMISSING THE CASE

Before the Court is the Magistrate Judge's Report and Recommendation [34], filed on June 30, 2009, on Defendants' Second Motion for Summary Judgment [31], and Plaintiff's Request for Summary Judgment [32].

The Report and Recommendation [34] recommends that, because Plaintiff has alleged neither an "essential deprivation" in his attempts to access the courts, nor a "nonessential deprivation that has caused [him] an actual injury," the Court should find that Plaintiff has failed to establish a prima facie case of denial of meaningful access to the courts. *See R&R at 4, 5* ("There simply is no evidence that Plaintiff was actually injured or prejudiced on any occasion in his ability to

meaningfully access the courts due to Defendants' alleged destruction of his legal papers.”)

On July 27, 2009, Plaintiff filed a document entitled “Motion that Summary Judgment Should be Granted for Plaintiff,” which the Court construes as a timely-filed Objection [36] to the Magistrate’s Report and Recommendation. This Court reviews *de novo* any objections to a Magistrate’s Report and Recommendation. *See* 28 U.S.C. § 636(b)(1). Here, the Court finds that Plaintiff’s Objection neither addresses nor cures the deficiencies in his *prima facie* case.

Therefore, the Court having reviewed the record, the Magistrate’s Report and Recommendation, and the parties’ pleadings in this case, and being fully advised in the premises,

IT IS HEREBY ORDERED that the Report and Recommendation [34] is **ADOPTED** and is entered as the findings of the Court. Plaintiff’s Objection [36] to the Report and Recommendation is **DENIED**.

IT IS FURTHER ORDERED that Defendants’ Second Motion for Summary Judgment [31] is **GRANTED**. Accordingly, Plaintiff’s Motion for Summary Judgment [22] and Request for Summary Judgment [33] are both **DENIED**, and this case is **DISMISSED** in its entirety. Thus,

IT IS FURTHER ORDERED that Plaintiff’s other pending motions – Plaintiff’s Motion to Vacate [32] and Plaintiff’s Motion for Leave to File a Supplemental Complaint [41] – are **DENIED AS MOOT**.

SO ORDERED.

S/ARTHUR J. TARNOW

Arthur J. Tarnow

United States District Judge

Dated: September 30, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 30, 2009, by electronic and/or ordinary mail.

S/THERESA E. TAYLOR

Case Manager